

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL
DEVELOPMENT PERMIT ISSUED BY
THE CITY OF SEATTLE TO HENRY LOW

MRS. JOHN F. MORRISON,

Appellant,

vs.

CITY OF SEATTLE and HENRY LOW,

Respondents.

SHB No. 120

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the request for review of a substantial development permit issued pursuant to RCW 90.58 by the City of Seattle to Henry Low, came before the Shorelines Hearings Board (Walt Woodward, presiding officer, and Gordon Y. Ericksen, designee of the Association of Washington Cities for this matter) at a hearing in the Seattle facility of the State Board of Industrial Insurance Appeals on April 17, 1974.

Appellant and respondent Low appeared pro se; respondent, City of Seattle, appeared through Gordon Crandall and Donald H. Stout, Assistants

EXHIBIT A

1 Corporation Counsel. David Ummel, Olympia court reporter, recorded the
2 proceedings.

3 Witnesses were sworn and testified. Exhibits were admitted. Post-
4 hearing briefs were submitted.

5 From testimony heard, exhibits examined, briefs considered and
6 transcript reviewed, the Shorelines Hearings Board makes these

7 FINDINGS OF FACT

8 I.

9 Respondent Low purchased a seven-unit apartment at 3625 Beach
10 Drive Southwest, Seattle, in 1959. On October 15, 1973, he applied to
11 the City of Seattle (hereinafter "the City") for a substantial
12 development permit for a five-unit addition to the existing structure
13 (three units in a story to be added to the structure and two in a new
14 two-story building projecting from an end of the existing structure).
15 The City approved the permit on December 27, 1973. On January 24, 1974,
16 appellant filed with the Shorelines Hearings Board the request for
17 review which is the subject of this hearing. On February 25, 1974, the
18 State Department of Ecology certified the request for review to the
19 Board.

20 II.

21 While respondent Low's application to the City was devoid of any
22 height-elevation sketches and, therefore, difficult for a person not
23 trained in engineering or architectural plans to understand, the
24 material submitted met requirements of the City for such an application.

25 III.

26 The immediate area involved in this matter (hereinafter "the area")

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1 is the land on both sides of Beach Drive Southwest from Southwest
2 Spokane Street to Southwest Orleans Street. Beach Drive Southwest,
3 running in a northwest-southeast line along the southern shore of
4 Alki Point, officially is designated by the City as a "scenic drive".
5 Both to the north and to the south of the area, Beach Drive Southwest
6 affords sweeping marine and mountain territorial views as it passes
7 public beach and public viewpoint portions of the shoreline. In the
8 area, however, a row of houses and apartment structures effectively
9 walls off the scenic view except for side yard spaces between the
10 structures. In addition, a large over-the-water apartment structure,
11 built prior to adoption of RCW 90.58 at right angles to the shoreline
12 at Southwest Orleans Street provides a massive barricade to the scenic
13 view from the level of Beach Drive Southwest.

14 IV.

15 In the area, the shoreline side of Beach Drive Southwest was
16 zoned by the City at the time respondent Low's permit was approved as
17 "RM-multiple residence low density". The landward side was zoned "RD-
18 5000-duplex residence high density". Further inland the zone was
19 "RS-5000-single family residence high density".

20 V.

21 Beach Drive Southwest has an on-street vehicular parking problem
22 because many of the multiple-residence structures do not provide sufficie
23 off-street space for their occupants' automobiles. On holidays and
24 pleasant-weather weekends, Beach Drive Southwest carries a large volume
25 of traffic in two lanes past rows of parked cars, many of them positioned
26 half in the street and half on the parking stip. Respondent Low's

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1 proposal meets present City requirements for five off-street parking
2 spaces, but the driveway necessary for this will remove two on-street
3 parking spaces. This, however, will not create a significant impact
4 on the Beach Drive Southwest parking or traffic situation.

5 VI.

6 Respondent Low's proposed addition will impair the immediate
7 marine view from two duplex structures directly across Beach Drive
8 Southwest. Appellant is a tenant in one of these duplexes.

9 VII.

10 The City made an official assessment of environmental factors
11 and found that the instant proposal would not have a significant
12 effect on the environment.

13 VIII.

14 The City had taken no action on its master program at the time
15 respondent Low's permit was approved.

16 IX.

17 Several similar substantial development permits were sought by
18 others in the area prior to respondent Low's application. None was
19 protested by appellant or other neighbors.

20 X.

21 Respondent Low and his wife are United States citizens of Chinese
22 ancestry. Respondent Low contended that racial prejudice against them
23 in the area was a cause of the instant appeal. Appellant denied this.

24 XI.

25 Any Conclusion of Law which is deemed to be a Finding of Fact is
26 adopted herewith as same.

27 FINDINGS OF FACT,
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1 From these Findings, the Shorelines Hearings Board comes to these

2 CONCLUSIONS

3 I.

4 The request for review was timely filed and certified and the
5 Shorelines Hearings Board has jurisdiction in this matter.

6 II.

7 The permit must be judged both by the policy statement of the
8 Shoreline Management Act of 1971 (RCW 90.58.020) and the Guidelines
9 thereof (WAC 173-16). It cannot be judged by the City's master program
10 for its shorelines because the permit was considered by the City before
11 it took action on the master program.

12 III.

13 The proposed development is consistent with the provisions of
14 both RCW 90.58.020 and WAC 173-16. It also is consistent with the City's
15 zoning regulations and the City considered environmental factors in
16 making its favorable assessment of the development. Therefore, there
17 are no legal barriers to the permit and it should be sustained.

18 IV.

19 The Board, being prepared to sustain the permit, finds no
20 necessity to adjudicate the racial prejudice issue.

21 V.

22 Any Finding of Fact which is deemed to be a Conclusion of Law
23 is adopted herewith as same.

24 Therefore, the Shorelines Hearings Board issues this

25 ORDER

26 The request for review is denied and the permit is sustained.

27 FINDINGS OF FACT,
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DONE at Lacey, Washington this 6th day of June, 1974.

SHORELINES HEARINGS BOARD

WALT WOODWARD, Chairman

RALPH A. BESWICK, Member

GORDON Y. ERICSEN, Member

W. A. GISSBERG, Member

MARY ELLEN McCAFFREE, Member

TRACY J. OWEN, Member

I (we) concur with the Order but do not support the second sentence in Conclusion II.

Walt Woodward

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